IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

Crl.MC.No. 818 of 2007()

SC.498/2005 of VI ADDL.SESSIONS COURT, ERNAKULAM
CRIME NO.1003/03 OF ALUVA POLICE STATION

.....

PETITIONER:

JOBY, S/O. MATHEW, AGTED 28 YEARS
PUTHUSSERY (HOUSE), ALUVA P.O.
ALUVA VILLAGE, ALUVA TALUK.

BY ADV. SRI.M.Y.VARGHESEKUTTY

RESPONDENTS:

STATE OF KERALA, REP. BY S.I. OF POLICE
ALUVA POLICE STATION, THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 818 of 2007

- -

Dated this the 21st day of March, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 398 r/w. 34 I.P.C. He is the third accused in S.C.No. 498 of 200 pending before the VIth Addl. Sessions Court, Aluva. The case was committed to the Court of Sessions. But the petitioner has not entered appearance. He had received summons, but he could not appear on that day due to an all India strike. Consequently the petitioner finds a non-bailable warrant of arrest chasing him. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm